

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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| JORGE RIOS, |) | CASE NO.: 1:13 CV 235 |
| |) | |
| Petitioner, |) | JUDGE DONALD C. NUGENT |
| |) | |
| v. |) | <u>ORDER ADOPTING MAGISTRATE'S</u> |
| |) | <u>REPORT AND RECOMMENDATION</u> |
| BENNIE KELLY, |) | |
| |) | |
| Respondent. |) | |

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge William H. Baughman, Jr. (ECF #12). The Report and Recommendation, issued on February 13, 2014, is hereby ADOPTED by this Court. Petitioner Jorge Rios filed this action seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner requested an extension of time to file his objections to Magistrate Judge Baughman's Report and Recommendation by March 27, 2014 (ECF #13), and this Court granted Petitioner leave. Petitioner timely filed objections to the Magistrate Judge's Report and Recommendation on March 27, 2014 (ECF #14).

This Court has since reviewed Magistrate Judge Baughman's Report and Recommendation *de novo*, and finds it to be thorough, well-written, and correct. *See* FED. R. CIV. P. 72(b)(3). This Court also finds that Petitioner Rios's objections to the Magistrate Judge's Report – while extensive – raise no arguments, either factual or legal, that have not already been comprehensively and competently addressed by the Magistrate Judge. Without exception, this Court finds the Magistrate Judge's treatment of Petitioner's arguments to be correct and fair, and therefore adopts the Report in its entirety, over Petitioner's objections.

Magistrate Judge Baughman recommended in his well-reasoned Report that Rios's

Petition for Writ of Habeas Corpus be denied as untimely and not meriting equitable tolling, and this Court finds no reason to disagree with that recommendation. Therefore, the Report and Recommendation (ECF #12) is ADOPTED by this Court in its entirety, and Jorge Rios's Petition for Writ of Habeas Corpus (ECF #1) is DENIED.

Further, for the reasons stated in this Order and in the Magistrate Judge's Report, a reasonable jurist could not conclude that dismissal of the Petition is in error or that Petitioner should be permitted to proceed further. Accordingly, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); FED. R. APP. P. 22(b).

IT IS SO ORDERED.



JUDGE DONALD C. NUGENT
United States District Judge

DATED: March 31, 2014